

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 25, 2013

IN RE:)	
)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	DOCKET NO.
D/B/A AT&T SOUTHEAST D/B/A AT&T TENNESSEE)	10-00008
COMPLAINT AND PETITION FOR RELIEF VS.)	
BLC MANAGEMENT, LLC D/B/A ANGLES)	
COMMUNICATIONS SOLUTIONS)	

ORDER GRANTING MOTION AND CLOSING DOCKET

This matter came before Vice-Chairman Herbert H. Hilliard, Director Kenneth C. Hill, and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”) at a regularly scheduled Authority Conference held on November 8, 2012, for consideration of the *Motion for Order Finding BLC Management LLC DBA Angles Communications Solutions Liable For \$15,894,723, Dismissing Counterclaims and Closing Docket* (“*Motion for Order*”) filed by Bellsouth Telecommunications, Inc. d/b/a AT&T Tennessee (“AT&T” or “AT&T Tennessee”) on June 29, 2012.

Relevant Background

AT&T filed several complaints with the TRA against various telecommunications services providers, including BLC Management, LLC d/b/a Angles Communication Solutions (“BLC” or “Angles”).¹ The complaints are a result of ongoing billing disputes between AT&T and Angles in several states, including Tennessee. On July 8, 2012, the Authority issued an

¹ See e.g. *In re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee Complaint and Petition for Relief vs. Budget PrePay, Inc. d/b/a Budget Phone f/k/a Budget Phone, Inc.*, Docket No. 10-00004 (January 8, 2010); *In re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee Complaint and Petition for Relief vs. dPi Teleconnect, LLC*, Docket No. 10-00007 (January 8, 2010).

Order consolidating several dockets with similar billing dispute issues, holding the dockets in abeyance until the consolidated docket is resolved and appointing a Hearing Officer.²

On June 29, 2012, AT&T filed its *Motion for Order*. Angles did not respond to AT&T's *Motion for Order*. On July 3, 2012, Henry Walker, the attorney who had been representing Angles in this matter, filed a letter withdrawing as the attorney for Angles and provided an address to send correspondence for Angles.³

AT&T's Motion for Order

In its *Motion for Order*, AT&T asserts that Angles has not paid for telecommunications services provided by AT&T to Angles for resale pursuant to an interconnection agreement approved by the TRA in Docket No. 05-00107 on July 27, 2005.⁴ AT&T claims that Angles has “manufactured millions of dollars of specious promotional credit requests and improperly offset the value of those requests against millions of dollars otherwise due to AT&T Tennessee for the services BLC ordered from AT&T Tennessee and resold to its own customers.”⁵ AT&T also asserts in its motion that “BLC has elected to cease operations and apparently abandon the prosecution of its baseless counterclaims here, rather than pay undisputed amounts due to AT&T Tennessee.”⁶ AT&T seeks an order from the TRA finding that Angles owes \$15,894,723 under the parties' interconnection agreement, dismissing with prejudice all counterclaims asserted by BLC and closing this docket.⁷

Since the timing of AT&T's *Motion for Order* and Mr. Walker's withdrawal were so close in time and since Angles had not filed a response, TRA General Counsel sent a letter to

² See *Order Holding Dockets in Abeyance, Convening a Consolidated Docket and Appointing a Hearing Officer* (July 8, 2010).

³ See Henry Walker and the Firm Bradley Arant Boult Cummings LLC are Withdrawing as Counsel for BLC (July 3, 2012).

⁴ See *In re: Petition for Approval of Interconnection Agreement Between BellSouth and BLC Management LLC d/b/a Angles Communication Solutions*, Docket No. 05-00107 (April 20, 2005).

⁵ See *Motion for Order*, p. 1 (June 29, 2012).

⁶ *Id.*

⁷ *Id.*

Angles at the address provided by Mr. Walker to be certain that Angles was aware of AT&T's *Motion for Order*.⁸ In the letter, Angles was given until July 31, 2012 to respond. Angles did not file a response.

In a letter from AT&T to TRA General Counsel, AT&T explained that while not required to do so, it sent its *Motion for Order* and other recent correspondence to Angles by regular and certified mail to each address Angles had used when corresponding with AT&T.⁹ In addition, AT&T stated that it "is serving a copy of this letter and attachments by certified and regular mail" upon the registered agent for Angles in Tennessee.¹⁰ In its letter, AT&T requested that since Angles had not responded to AT&T's motion, the Authority should consider Angles to have defaulted and should issue an order granting the relief AT&T seeks in its *Motion for Order*.¹¹ On October 2, 2012, AT&T filed the return receipts from the letters sent to Angles indicating that Angles and its registered agent received AT&T's *Motion for Order*.¹²

November 8, 2012 Authority Conference

At the regularly scheduled Authority Conference held on November 8, 2012, AT&T presented its *Motion for Order* to the panel. No one from Angles was present at the hearing. AT&T explained its efforts to contact Angles and stood on the arguments made in its *Motion for Order*. AT&T asserted that it was "entitled to a default judgment in the manner that has been set out in our motion."¹³

TRA Rule 1220-1-2-.17 states:

- (1) Failure of a party to attend or participate in a pre-hearing conference, hearing or other stage of a contested case proceeding, after due notice thereof, shall be cause for finding such party in default, pursuant to

⁸ See *Notice of Filing of Motion* (July 24, 2012).

⁹ See Letter to Jean Stone from AT&T Tennessee (September 7, 2012).

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² See Return Receipts Inadvertently Omitted From 10/1/12 Filing (October 2, 2012).

¹³ See Transcript of Proceedings-Complete, p. 28 (November 8, 2012).

T.C.A. § 4-5-309. Failure to comply with an order of the Authority or a Hearing Officer may be deemed a failure to participate in a contested case and, therefore, be cause for finding a party in default.

- (2) (a) Upon entry into the record of the default of the petitioner at a contested case proceeding, the petition shall be dismissed.
- (b) Upon entry into the record of the default of a respondent at a contested case proceeding, the matter shall be tried as unopposed relative to such respondent.
- (3) Where the case is unopposed, the petitioner has the burden of making out a prima facie case, which may be done on the basis of written filings. In order to carry out statutory policies, however, the Authority or Hearing Officer may require further proof.

Based on TRA Rule 1220-1-2-.17 and the record in this docket, the panel made the following findings:

- 1) Angles is no longer serving Tennessee customers;
- 2) Angles has declined further participation in this proceeding; and
- 3) Angles has failed to pay all amounts in issue, including both undisputed amounts and those for which Angles had raised Counter Claims and defenses, resulting in unpaid charges due and owing in the amount of \$15,894,723.

Thereafter, the panel voted unanimously to grant AT&T's *Motion for Order* and close the docket. The panel noted that its decision should not be considered a decision on the merits of the telecommunications services and credits at issue in this docket.

IT IS THEREFORE ORDERED THAT:


1. The *Motion for Order Finding BLC Management LLC DBA Angles Communications Solutions Liable For \$15,894,723, Dismissing Counterclaims and Closing Docket* filed by Bellsouth Telecommunications, Inc. d/b/a AT&T Tennessee is granted pursuant to TRA Rule 1220-1-2-.17.

2. The Tennessee Regulatory Authority Docket Manager is instructed to close Docket No. 10-00008.

3. The Authority decision in this docket shall not be considered as a decision on the merits of the telecommunications services and credits at issue in this docket.

Vice-Chairman Herbert H. Hilliard, Director Kenneth C. Hill, and Director Sara Kyle concur.

ATTEST:

A handwritten signature in black ink, appearing to read "Earl Taylor", written over a horizontal line.

Earl R. Taylor, Executive Director